



2016-025

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

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501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Joseph W. Sedinger
Sheriff of Autauga County
162 West 4th Street
Prattville, Alabama 36067

Sheriffs – Deputies – County
Employees – Candidates – Process
Servers – Leaves of Absence –
County Commissions

A part-time Autauga County deputy sheriff is not required to take a leave of absence to run for the office of county commissioner.

A part-time civil process server in Autauga County, who is paid out of the Autauga County Sheriff Service of Process Serving Fund, is not required to take a leave of absence to run for the office of county commissioner.

Dear Sheriff Sedinger:

This opinion of the Attorney General is issued in response to your request.

QUESTION

(1) Must a part-time deputy sheriff of Autauga County, who is APOST-certified and has arrest powers, be required to take a leave of absence to run for the office of county commissioner?

FACTS AND ANALYSIS

Previously, this Office has determined that a deputy sheriff may seek political office in the same county in which that deputy is employed without being required to take a leave of absence. Opinions to Honorable James B. Johnson, Baldwin County Sheriff, dated September 24, 2002, A.G. No. 2002-343; Honorable James Jones, Shelby County Sheriff, dated October 5, 2001, A.G. No. 2002-016; Honorable Jack Page, Member, House of Representatives, dated April 29, 1996, A.G. No. 96-00200. Accordingly, it is the opinion of this Office that a part-time Autauga County deputy sheriff is not required to take a leave of absence to run for the office of county commissioner.

CONCLUSION

A part-time Autauga County deputy sheriff is not required to take a leave of absence to run for the office of county commissioner.

QUESTION

(2) Must a part-time civil process server in Autauga County, who is paid out of the Autauga County Sheriff Service of Process Serving Fund, be required to take a leave of absence to run for the office of county commissioner?

FACTS AND ANALYSIS

The Autauga County Sheriff Service of Process Serving Fund ("Fund") was created pursuant to Act 2006-223. 2006 Ala. Acts No. 2006-223, 384. This act gives the Autauga County Sheriff the ability to contract with or enter into a contract or agreement with a private, public, or governmental entity for the purpose of service of process. The Fund collects \$20 per document filed in the civil or criminal division of the district and circuit courts of Autauga County. The funds that are collected are to be remitted to the sheriff for placement in the Fund. Section 5, which discusses the monies collected more fully, states as follows:

The sheriff may use the monies generated by this act for law enforcement purposes in Autauga County, *as the sheriff sees fit, including contracting with* or entering into a contract or agreement with *a private*, public, or governmental *entity for service of process of documents* from the civil or criminal division of the district or circuit court. The funds shall not revert to the general fund of the county at the end of the fiscal year.

2006 Ala. Acts No. 2006-223, 384, 385 (emphasis added).

Generally, section 17-1-4(b) of the Code of Alabama requires a county employee, who has the county commission as his or her employing authority, to take an unpaid leave of absence or use accrued overtime or vacation leave when seeking a political office with the county. ALA. CODE § 17-1-4(b) (2006); opinion to Honorable Jack Page, Member, House of Representatives, dated April 29, 1996, A.G. No. 96-00200.

Your inquiry questions whether a part-time civil service process server, who is paid from the Autauga County Sheriff Service of Process Serving Fund, must take a leave of absence to run for the office of county commission. The server is paid from the Fund based upon the terms of a contract. The server is not an employee of the county because this Office understands that the sheriff has the sole authority to hire or fire the process server at his discretion. Opinion to Honorable Jack Page, Member, House of Representatives, dated April 29, 1996, A.G. No. 96-00200. Thus, a process server in Autauga County paid from the Fund may seek political office with the county without having to take a leave of absence.

CONCLUSION

A part-time civil process server in Autauga County, who is paid out of the Autauga County Sheriff Service of Process Serving Fund, is not required to take a leave of absence to run for the office of county commissioner.

Honorable Joseph W. Sedinger
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General

By:

A handwritten signature in cursive script, reading "G. Ward Beeson, III". The signature is written in dark ink and is positioned above the printed name and title.

G. WARD BEESON, III
Chief, Opinions Section

LS/MMG
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